

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

MARY BRASWELL, as conservator of )  
FRANK D. HORTON, individually, )  
  )  
Plaintiffs, )  
  )  
v. )                                       **No. 3:08-0691**  
  )  
**CORRECTIONS CORPORATION OF**)  
**AMERICA, INC.**)  
  )  
Defendant. )  
  )

**ORDER**

Pending before the Court is Plaintiffs' Motion for Extension to Respond to Defendant's Motion to Dismiss ("Plaintiffs' Motion") (Doc. No. 8). Plaintiffs correctly note in their Motion that Defendant's Motion to Dismiss (Doc. No. 5) contained matters outside the pleadings. Under the Federal Rules, Defendant's Motion to Dismiss must therefore be treated as a Motion for Summary Judgment. FED. R. CIV. P. 12(d); Sims v. Mercy Hosp. of Monroe, 451 F.2d 171, 173 (6th Cir. 1971); CHARLES ALAN WRIGHT, ARTHUR R. MILLER & EDWARD H. COOPER, FEDERAL PRACTICE AND PROCEDURE § 1366 (3d ed. 2008). Accordingly, the Court **ORDERS** both parties to submit any supplemental briefing, supporting evidence, and other material which may be pertinent to disposition of this Motion on or before **September 1, 2008**.

It is so ORDERED.

Entered this 21<sup>nd</sup> day of August, 2008.

*Aug 21*  
JOHN T. NIXON, SENIOR JUDGE  
UNITED STATES DISTRICT COURT